HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO.19262 OF 2006

Between:

D. Srinivas Rao and others
. . .Petitioners

AND

The Municipal Corporation of Hyderabad and another
. . .Respondents

Counsel for the Petitioners : Shri Dammalapati Srinivas

Counsel for the Respondents : Smt. G.Jyothi Kiran

Dated: 27th September, 2006

: ORDER :

PER G.S.SINGHVI, CJ

In this petition, the petitioners have prayed for quashing notices dated 08.09.2006 and 11.09.2006 issued by Commissioner, Municipal Corporation of Hyderabad under Sections 452 and 636 of the Hyderabad Municipal Corporation Act, 1955 (for short 'the Act').

The complaint of the petitioner is that notice under Section 636 of the Act has been issued without giving them reasonable opportunity to contest the notice issued under Section 452 of the Act.

We have heard learned counsel for the parties and perused the record.

In our opinion, notice under Section 636 of the Act is vitiated and is liable to be quashed on the ground of violation of rules of natural justice. Three days time given by the authority concerned to the petitioners to file reply to notice issued under Section 452 of the Act was highly inadequate and unreasonable. If the petitioners were called upon to remove the alleged unauthorized construction, then the authority concerned should have given them reasonable time to file reply to show that the allegation of unauthorized construction is factually incorrect. Since that course has not been adopted, we deem it proper to allow the writ petition and quash notice dated 11.09.2006 with the following directions:

1) Within six weeks from today, the petitioners shall file reply to notice dated 08.09.2006 issued under Section 452 of the Act. Along with the reply, the petitioners may submit documents to show that they have not raised construction in violation of the sanctioned plan.

2) Within next three weeks, the competent authority shall, after giving opportunity of personal hearing to the petitioners or their representatives, pass appropriate order in accordance with law. Such order shall be communicated to the petitioners or their representatives at the end of three weeks period specified hereinabove.

3) Till passing of appropriate order by Commissioner, Municipal Corporation of Hyderabad, the petitioners shall neither raise any further construction nor alienate the property to third party or create any right in favour of any other person.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

Date: 27.09.2006

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